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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,263	06/20/2003	Wayne Allen Wade		7552
27073	7590	04/28/2006		
LEFFERT JAY & POLGLAZE, P.A. P.O. BOX 581009 MINNEAPOLIS, MN 55458-1009				
			EXAMINER CASTELLANO, STEPHEN J	
			ART UNIT 3727	PAPER NUMBER

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/600,263	Applicant(s) WADE, WAYNE ALLEN	
	Examiner Stephen J. Castellano	Art Unit 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-8,18,19,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-8,18,19,21 and 22 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3727

Claims 3, 9-17 and 20 have been canceled. Claims 1, 2, 4-8, 18, 19, 21 and 22 are pending.

Claim 22 is objected to as being incomplete since it depends from canceled claim 20.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4-8, 18, 19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Redding in view of Clarke et al. (Clarke).

Redding discloses a thermoplastic (polyethylene) molded fuel tank as shown in Fig. 4 by rotating 90 degrees in either direction comprising an upper chamber connected to a lower chamber, circular first ports formed with an opening in the upper chamber and circular hollow second ports formed in an opening in the lower chamber, and molded through tapered columns (each column formed by an opposing pair of projections 30, one upper projection connected with a first port and an lower opposing, adjacent projection connected with a second port) connected with the first and second ports. Redding is inherently capable of performing as a septic tank and (1) can be installed underground and (2) can withstand external forces of an underground tank backfilled with soil after being installed underground as the columns add sufficient strength to withstand exterior forces. Redding discloses the invention except for the size of the opening formed in the second ports being less than the size of the openings formed in the first ports. Clarke teaches a molded fuel tank having a first port (rear opening 64) connected to an opposed second port (front opening 62), the diameter of the second port opening is less than the diameter

Art Unit: 3727

of the first port opening, a molded through tapered column (internal chamber 58) engages the first and second ports. It would have been obvious to modify Redding so that the second port opening diameter is less than the first port opening diameter in order to provide the desired reinforcing at a center of the tank to resist expansion and bursting from internal pressure, also the opening through the column extends from the first port to the second port and eliminates the need for tank molded material inside the column producing a saving of material.

Re claims 6-8, the ranges of thickness are obvious in view of the lack of criticality given to the three ranges mentioned as motivated by a need for a more durable, stronger and higher impact resistant tank one of ordinary skill would increase thickness and as motivated by a need for a lighter tank and a tank that uses less material one of ordinary skill would decrease thickness. A medium thickness tank optimizes the needs associated with increased thicknesses and the needs associated with decreased thicknesses.

Applicant's arguments filed January 17, 2006 have been fully considered but they are not persuasive. Applicant's remarks state that the combination of Redding and Clarke don't teach every element of claim 1 in a paragraph that apparently only evaluates Redding and fails to analyze the teachings of Clarke. Regardless, Redding in fact does have "molded through tapered columns" of claim 1 and the "tapered hollow columns" of claim 18. The columns are defined by opposing pairs of projections 30 as stated in the rejection above. The "molded through" limitation is met because the outer walls and the projections 30 are of identical integrally molded construction. The "molded through" limitation doesn't preclude a wall (connecting wall 74) of separation or truncated ends 72 within the column.

Art Unit: 3727

Applicant states that neither, Redding or Clarke, could be used as a septic tank and they can't withstand external forces. Applicant has noted the high strength characteristics of Redding and Clarke to withstand internal forces. It is not understood how applicant can conclude that containers having high strength characteristics and similar strengthening column structure would not be capable of withstanding external forces in a similar manner. It is noted that a particularly sized tank has not been claimed and that particular external forces have not been identified or claimed.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on Tuesday - Friday 6:30-5.

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc